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The Honorable Christopher M. Alston
Chapter 11
Hearing Date: 6/20/17

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**IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

In Re:

BEN H. McINDOE,

Debtor,

Bankruptcy No. 15-17388-CMA

MOTION IN LIMINE

COMES NOW Special Counsel, Richard Llewelyn Jones of KOVAC & JONES, PLLC, (hereinafter "Special Counsel") and, pursuant to *FRE 103*, hereby objects to the introduction of the correspondence from Jonathan Burke to Kurt Bulmer and Penny Stafford (P-20). This objection is based on the following.

First, the subject correspondence cannot be authenticated by any of the witnesses who have been identified to provide testimony before this Court and does not fit within any of the categories of evidence that are self-authenticating. *FRE 901* and *FRE 902*.

Second, the subject correspondence is hearsay and inadmissible. *FRE 801* and *FRE 802*.

Third, the opinions contained in the correspondence are merely argument/claims offered in a matter now pending before the Washington State BAR Association that has not yet been heard. The correspondence is no more proof of a violation of the Washington State Rules of Professional Conduct than a prosecutor's Information is proof of a crime.

MOTION IN LIMINE - Page 1

KOVAC & JONES, PLLC

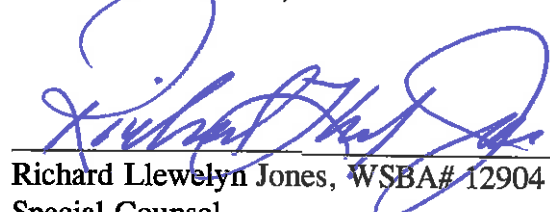
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1 Finally, the opinions expressed by Mr. Burke are not relevant to the issues now before
2 the Court as they are based on materially different facts and appear to be an attempt by the U.S.
3 Trustee to wrongfully establish Special Counsel's character for certain acts. *FRE 401* and *FRE*
4 *404*. Such evidence is not admissible. *FRE 404*. Moreover, a private cause of action for
5 professional negligence cannot be based on a violation of the Code of Professional
6 Responsibility or the Rules of Professional Conduct as neither sets a standing for civil liability.
7 *Hizey v. Carpenter*, 119 Wn.2d 251, 830 P.2d 646 (1992).

8 For the foregoing reasons, Special Counsel respectfully requests the Court bar
9 introduction and admission of Mr. Burke's correspondence of November 28, 2016 (P-20) for
10 any purpose during the evidentiary hearing now scheduled for June 20, 2017.

11 **RESPECTFULLY SUBMITTED** this 15th day of June, 2017.

12 **KOVAC & JONES, PLLC**

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14 Richard Llewelyn Jones, WSBA# 12904
15 Special Counsel
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